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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,077	07/29/2003	Nancy Usiak	02-281US01 [209.0250001]	5948
54953 7590 03/30/2011 BROOKS, CAMERON & HUEBSCH, PLLC 1221 NICOLLET AVENUE SUITE 500 MINNEAPOLIS, MN 55403				
EXAMINER				
MENDOZA, MICHAEL G				
ART UNIT		PAPER NUMBER		
3734				
MAIL DATE		DELIVERY MODE		
03/30/2011		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/629,077

Applicant(s)

USIAK ET AL.

Examiner

MICHAEL G. MENDOZA

Art Unit

3734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21, 23, 24, 26, 29 and 31-52 is/are pending in the application.
- 4a) Of the above claim(s) 1-21 and 31-51 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23, 24, 26, 29 and 52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/26/2010 has been entered.

Response to Arguments

2. Applicant's arguments, see page 10 and 11 with arguments to Ravenscroft, filed 2/8/2011, with respect to the rejection(s) of claim(s) 23, 24, 26, 29, and 52 under 35 USC 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Martin et al. in view of Anson in view of Armstrong et al.

3. Applicant's arguments filed 2/8/2001 concerning Anson have been fully considered but they are not persuasive. The applicant argues that figs. 4 and 5 are depictions of what is described as "simply bifurcated". The examiner disagrees. Figs. 4 and 5 read on the description of "numerous smaller or larger tubes of similar construction, attached to the main tube body." As shown in figs 4 and 5, a smaller tube has been "attached" to the larger tube 13. Furthermore, bifurcated as defined in Merriam-Webster online dictionary is to divide into two branches or parts (<http://www.merriam-webster.com/dictionary/bifurcated>). The smaller tube is an addition

to the tube. The large tube 13 is not divided as would be in a "simply bifurcated" tube. In a bifurcated tube, the tube would be "divided" at one end resulting in two smaller tubes. The configuration of a bifurcated tube is well known in the art.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 23, 24, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin et al. 6361637 in view of Anson WO 97/09007 in view of Armstrong et al. 6827731.
6. Martin et al. teaches, a rolled graft, comprising a generally tubular graft flattened against itself and rolled onto itself into cylindrical configuration wherein the graft includes a larger diameter main section (col. 14, line 48-col. 15, line 3), in combination with an expansion element disposed axially within the rolled graft (col. 15, lines 30-32), further comprising a temporary covering (9) surrounding and restraining the graft. It should be noted that Martin et al. fails to teach two smaller diameter sections at an axial end of the larger diameter section.
7. Anson teaches a larger diameter main section and two smaller diameter sections at an axial end of the larger diameter section(pg. 4, lines 14-23, simply bifurcated). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the graft of Martin et al. to have two smaller diameter sections in

view of Anson when using the graft in conjunction with a trunk vessel into two branch vessels. The is well known in the art to use a bifurcated graft at a location where a vessel branches.

8. Martin/Anson teaches a graft having two smaller diameter sections disposed within the axial end of the main section prior to delivery (pg. 4, lines 14-23).

9. It should be noted that Martin/Anson teaches the removal of a covering (9), but fails to teach a temporary covering comprising a rip cord or ribbon along its length.

10. Armstrong et al. teaches a covering with a common rip cord or ribbon (111) for removal of the covering. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include the perforations of Armstrong et al. on the cover of Martin/Anson to facilitate the removal of the cover.

11. Martin/Anson/Armstrong teaches wherein the graft is rolled onto an axial member (232).

12. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Martin et al. in view of Anson in view of Armstrong et al. as applied to claim 27 above, and further in view of Sgro 6063112.

13. Martin/Anson/Armstrong teaches the rolled graft of claim 27. It should be noted that Martin/Anson/Armstrong fails to teach wherein the temporary covering is absorbed.

14. Sgro teaches a device with a common covering that is absorbable (col. 4, line 66- col. 5, line 9). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Martin/Anson/Armstrong

in view of Sgro to make the covering absorbable to remove the need of retrieving the covering after placement of the device.

15. Claim 52 is rejected under 35 U.S.C. 103(a) as being unpatentable over Martin et al. in view of Anson.

16. Martin et al. teaches, a rolled graft, comprising a generally tubular graft flattened against itself and rolled onto itself into cylindrical configuration wherein the graft includes a larger diameter main section (col. 14, line 48-col. 15, line 3), whereby a length of the rolled graft is shortened during delivery inside a body lumen (col. 17, lines 35-37). It should be noted that Martin et al. fails to teach two smaller diameter sections at an axial end of the larger diameter section.

17. Anson teaches a larger diameter main section and two smaller diameter sections at an axial end of the larger diameter section. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the graft of Martin et al. to have two smaller diameter sections in view of Anson when using the graft in conjunction with a trunk vessel into two branch vessels. This is well known in the art to use a bifurcated graft at a location where a vessel branches.

18. Martin/Anson teaches wherein a graft having two smaller diameter sections disposed within the axial end of the main section prior to delivery (pg. 4, lines 14-23).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL G. MENDOZA whose telephone number is (571)272-4698. The examiner can normally be reached on Mon.-Fri. 9:00 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Jackson can be reached on (571) 272-4697. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. G. M./
Examiner, Art Unit 3734

/Gary Jackson/
Supervisory Patent Examiner, Art Unit 3734
March 27, 2011